

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-223

May 23, 2006

PUBLIC UTILITIES COMMISSION
Maine Telecommunications Education
Access Fund

ORDER

ADAMS, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we approve the Maine Telecommunications Education Access Fund (MTEAF) Advisory Board's (Board) recommendations to the Commission, made pursuant to Chapter 285 § 6(B), concerning collection and spending for the MTEAF (Fund) from July 2006 through June 2007.

II. APPROVAL OF MTEAF FUNDING FOR 2006 – 2007

Title 35-A M.R.S.A. § 7104-B(4) requires that MTEAF funds be used to provide discounts to qualified schools and libraries for the following: telecommunications services; internet access; internal connections; computers; training; and content. Chapter 285 § 6(B) of our Rules requires the MTEAF Advisory Board to recommend to us annually the services that should be funded for the upcoming year, the funding level, and the overall amount to be assessed by carriers. Based on the recommendation of the Board, we approve the following collection and spending for the MTEAF from July 1, 2006 through June 30, 2007.

A. Basic Program Elements

We will continue to fund bandwidth and internet service at no cost to all qualified schools and libraries pursuant to 35-A M.R.S.A. § 7104-B(1) (referred to as MSLN). This includes T-1 frame relay connections and DSL connections. We will also continue to provide funding for ATM sites, Circuit Riders and Fogler Library databases as further described below. We direct the Board, with input from the State Library and Department of Education, to immediately begin planning for the 2007-2008 program to determine whether currently funded connections meet the requirement in 35-A M.R.S.A. § 7104-B(5)(A) that the MTEAF be used to ensure a "basic level of connectivity" for all qualified schools and libraries in the State.

B. Assessments by Carriers

Title 35-A M.R.S.A. § 7104-B(3)(A) requires the Commission to annually establish an amount of up to 0.7% of retail charges, to be collected by intrastate carriers for the MTEAF. Chapter 285 § 2(B) requires the Commission, in establishing the amount to be collected, to consider the needs of schools and libraries, the amount

collected in the previous year and the impact on ratepayers, particularly when integrated with any State Universal Service Fund.

In 2005, the Legislature increased the allowable MTEAF assessment amount from 0.5% to 0.7%. We approved increasing the assessment to 0.7% effective October 2006. This was to allow payment of current services as well as to improve cash flow while waiting for Federal E-Rate reimbursements. During the past five years, Federal E-Rate funds have not been received until after the associated funding year, resulting in the need to pay vendors upfront the Federal E-Rate share. The Board requests the assessment continue at the 0.7% level to provide for some cushion in the event it continues to need to make payments prior to the receipt of E-Rate funds. The Board will recommend a reduction in the assessment if E-Rate payments become more timely, or if the additional funding is no longer needed.

Effective July 1, 2006, we will approve an assessment of 0.7%. We will monitor the MTEAF cash flow and attempt to reduce the assessment if possible. All intrastate carriers also currently contribute to a Universal Service Fund at a rate of 1.33% (or 0.0133) of each carrier's intrastate retail revenues, pursuant to Chapter 288 § 4(6). We prefer to keep the MTEAF assessment as low as possible, given this additional USF assessment. However, to provide support for essential services to schools and libraries and given the delays in receiving Federal E-Rate funding, we find it necessary to assess carriers at the maximum level of 0.7%.

C. Innovative and Technologically Advanced Program

Title 35-A M.R.S.A. § 7104-B(5) requires that "[a] minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced." We will continue to meet this requirement in the year 2006-2007 in a number of ways. Our funding for ATM connections for schools and libraries supports an innovative and technologically advanced service. Funding of DSL technology and financial support for the Fogler databases also meet this criterion.

D. Circuit Riders

The MSLN currently supports three "circuit riders" who are available by phone, e-mail, and onsite visits to assist schools and libraries. Feedback on this program has continued to be extremely positive, especially for small schools and libraries. The Board proposes continuation at a cost of \$239,939 annually, and we accept that recommendation.

E. Raymond H. Fogler Library at the University of Maine – Digital Library

We will pay \$500,000 in 2006 – 2007 to allow Fogler Library to provide access to electronic databases to citizens statewide.

F. Asynchronous Transfer Mode (ATM)

Approximately 91 high schools have ATM connections for voice, data (instead of a T-1 line) and video. These sites pay \$2,075 per month for this service and each site applies for Federal E-Rate (with discounts ranging from 20% to 90%). Because the sites use their ATM in lieu of a T-1, we have provided financial support from the MTEAF to cover some costs not paid for by Federal E-Rate. The Commission chose \$358 per month as an estimate of half the amount remaining after applying the average school E-Rate discount, which for these high schools is 66%. Therefore, \$358 continues to represent approximately half the amount owed after E-Rate is applied, and we will maintain that level of support.

Beginning in 2001, we also agreed to provide financial support for elementary and middle schools that are close enough to an ATM site that they can share the connection. These are sites that otherwise would have been eligible for their own T-1 or 56 Kbps. We agreed with the Board's recommendation that these shared sites continue to receive MTEAF funds in the amount for which they would otherwise be eligible, up to an amount not to exceed the monthly cost of the ATM connection where all the sites' credits are taken together.

The total cost for ATM support in 2006-2007 is expected to be \$450,000. We agree with the Board's recommendation that this support should continue.

G. Fund Administration

We authorize the expenditure of funds to pay for a fund administrator to assess carriers, collect funds from carriers and make payments from the Fund. We also authorize the Board to hire a consultant to help with the E-Rate application process. The consultant will review current practices, assist with the filing of the 2007 applications, manage any reviews currently pending and suggest process improvements. We expect this to cost approximately \$215,000.¹

H. Libraries Choosing Not to Filter

In 2004, the Legislature amended 35-A M.R.S.A. § 7104-B(6) to allow public libraries to decline Federal E-Rate for Internet service if they determine that applying for E-Rate (e.g., complying with E-Rate's filtering requirements) would substantially compromise the library's standards or mission. The statute allows the Commission to mitigate the loss of Federal E-Rate funds using the MTEAF.

Since the 2004-2005 program year, we have allowed non-filtering libraries to contribute \$25 per month toward the cost of Internet service with MTEAF paying the remainder of the amount that would typically be paid for by Federal E-Rate. Under the

¹ Currently, the State Library, Department of Education and the Commission are examining how the Maine School and Library Network will be managed in the future. We may amend this Order to allow the use the MTEAF to compensate the state agencies which are implementing the services being provided with MTEAF funds.

current UNET contract, Internet service costs \$125 per month. Assuming E-Rate will pay 62% of the cost of Internet service for filtering libraries, MTEAF will provide a \$52.50 per month additional subsidy to these non-filtering libraries. Currently, 53 libraries have chosen not to filter. Therefore, this additional subsidy will cost MTEAF \$33,390 annually.

III. DELEGATION

We delegate to the Chair of the Advisory Board the authority to direct the MTEAF administrator to make disbursements from the fund consistent with this Order.

Dated at Augusta, Maine, this 23rd day of May 2006.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Acting Administrative Director

COMMISSIONERS VOTING FOR: Adams
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.